



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2018-0807; FRL-9996-24-Region 4]

Air Plan Approval; Kentucky: Jefferson County Existing and New VOC Water Separators

Rule Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve two revisions to the Jefferson County portion of the Kentucky State Implementation Plan (SIP), submitted by the Commonwealth of Kentucky, through the Kentucky Division of Air Quality (KDAQ), through a letter dated March 15, 2018. The changes were submitted by KDAQ on behalf of the Louisville Metro Air Pollution Control District (LMAPCD) (also referred to herein as Jefferson County) and make minor ministerial amendments to applicability dates and clarify standards applicable to both existing and new volatile organic compounds (VOC) water separators. EPA is approving these changes because they are consistent with the Clean Air Act (CAA or Act).

DATES: This rule will be effective **[Insert 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R04-OAR-2018-0609. All documents in the docket are listed on the www.regulations.gov web site.

Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division (formerly the Air, Pesticides and Toxics Management Division), U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Evan Adams of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9009. Mr. Adams can also be reached via electronic mail at adams.evan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

EPA is taking final action to approve changes to the Jefferson County portion of the Kentucky SIP that were provided to EPA through a letter dated March 15, 2018.¹ EPA is finalizing approval of the portions of these SIP revisions that make changes to the District's

¹ EPA notes that the Agency received the SIP revision on March 23, 2018.

Regulation 6.26, *Standards of Performance for Existing Volatile Organic Compound Water Separators*, and Regulation 7.36, *Standards of Performance for New Volatile Organic Compound Water Separators*.² The March 15, 2018, SIP revisions make minor and administrative changes that clarify the applicability of these regulations, as well as correct an applicability date overlap of four years between the standards for new and existing VOC water separators. The SIP revisions update the current SIP-approved versions of Regulation 6.26 (Version 2) and Regulation 7.36 (Version 3) to Version 3 and Version 4, respectively.

In a notice of proposed rulemaking (NPRM) published on March 29, 2019 (84 FR 11919), EPA proposed to approve the aforementioned changes to Regulations 6.26 and 7.36 in the Jefferson County portion of the Kentucky SIP, which address the control of emissions from existing and new VOC water separators, respectively. The NPRM provides additional details regarding EPA's action. Comments on the NPRM were due on or before April 29, 2019. EPA received no comments on the proposed action, so EPA is now taking final action to approve the above-referenced revisions.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Jefferson County's Regulation 6.26, *Standards of Performance for Existing Volatile Organic Compound Water Separators*, Version 3, and Regulation 7.36, *Standards of Performance for New Volatile Organic Compound Water Separators*, Version 4, both State

² EPA also notes that the Agency received several other revisions to the Jefferson County portion of the Kentucky SIP submitted with the same March 15, 2018, cover letter. EPA will be considering action on the remaining revisions in separate actions.

effective January 17, 2018. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.³

III. Final Action

EPA is taking final action to approve the aforementioned changes to the Jefferson County portion of the Kentucky SIP. These rule adoptions do not contravene federal permitting requirements or existing EPA policy, nor will they impact the National Ambient Air Quality Standards or interfere with any other applicable requirement of the Act.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

³ *See* 62 FR 27968 (May 22, 1997).

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be

filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: June 26, 2019.

Mary S. Walker,
Regional Administrator,
Region 4.

40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart (S) - Kentucky

2. Section 52.920(c), Table 2, is amended:

a. Under “Reg 6 – Standards of Performance for Existing Affected Facilities” by revising the entry for “6.26”; and

b. Under “Reg 7 – Standards of Performance for New Affected Facilities” by revising the entry for “7.36” to read as follows:

§ 52.920 Identification of plan.

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(c) * * *

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TABLE 2 – EPA-APPROVED JEFFERSON COUNTY REGULATIONS FOR KENTUCKY

Reg	Title/subject	EPA approval date	Federal Register notice	District effective date	Explanation
**	*	*	*	*	*
Reg 6–Standards of Performance for Existing Affected Facilities					
**	*	*	*	*	*
6.26	Standards of Performance for Existing Volatile Organic Compound Water Separators	[Insert date of publication in <u>Federal Register</u>]	[Insert citation of publication]	1/17/18	

**	*	*	*	*	*
Reg 7—Standards of Performance for New Affected Facilities					
**	*	*	*	*	*
7.36	Standards of Performance for New Volatile Organic Compound Water Separators	[Insert date of publication in <u>Federal Register</u>]	[Insert citation of publication]	1/17/18	
**	*	*	*	*	*

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[FR Doc. 2019-14631 Filed: 7/10/2019 8:45 am; Publication Date: 7/11/2019]